

The 28th April, 1975

No. 4843.—Whereas the Governor of Haryana is satisfied that land specified below is needed by Government, at public expense, for a public purpose, namely, for the land to be acquired for the construction of proposed Bayanpur Minor from R.D. 0 to R.D. 5755 off-taking at R.D. 215000-L Delhi Branch in villages Barwasni and Mahlana in tehsil Sonapat of Sonapat District for which a notification under section 4 has been issued and published,—*vide* Haryana Government Notification No. 1145/819/W, dated 24th January, 1975 in Haryana Government Gazette Part-I, it is hereby declared that land described in specification below is required for the above purpose.

The declaration is made under the provision of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plans of the land may be inspected in the offices of the Land Acquisition, Collector, Public Works Department, Irrigation Branch, Ambala City and Executive Engineer, Delhi, Division, Western Jumna Canal, 3-Alipur Road, Delhi-6.

SPECIFICATION

Serial No.	District	Tehsil	Village	Hadbast No.	Area in acres	Boundary
1	Sonapat	Sonapat	Barwasni	202	6.32	A strip of land measuring 5755 feet in length and varying in width generally lying from North-West to East-South in Rectangle number 119. Field Numbers 13, 14/1, 14/2, 15, 16, 17, Rectangle number 120, Field Numbers 11, 16, 17, 18, 19, 20, Rectangle number 121, Field Number 16, 17, 18, 19, 20, Rectangle number 122, Field Numbers 20, 21, 22, 23, 24, 25, Rectangle number 124, Field Number 21, 22, Rectangle number 4, Field number 16, Rectangle number 5, Field number 20, Rectangle number 8, Field number 22, 23
2	Do	Do	Mahlana	193	0.47	
Total					6.79	

By order of Governor Haryana.

P. N. KAPUR,
Superintending Engineer,
Western Jumna Canal, East Circle, Delhi-6.

The 22nd April, 1975

No. 5283/2L.—Whereas the declaration under section 6 of the Land Acquisition Act, 1894, in respect of the land specified below has been made and published in Haryana Government Gazette,—*vide* Notification No. 3960/2L, dated 23rd March, 1975.

Now, therefore, in exercise of the power under section 7 of the Land Acquisition Act, 1894, the Governor of Haryana hereby directs the Land Acquisition Collector, Public Works Department, Irrigation Branch, Ambala to take order for acquisition of the said land.

SPECIFICATION

District	Tehsil	Village	Area in acres	Boundary
Rohtak	Rohtak	Kanahli	19.45	A strip of land in length varying in widths passing through Khasra Numbers as per statement separately lying generally in the direction from North-east to South-west as demarcated at site and as shown on the Index Plan.
Do	Do	Mainah	10.63	
Do	Do	Sunari Kalan	9.74	
Do	Do	Sunari Khurd	19.98	
Do	Do	Gurnaothi	9.15	
Do	Do	Baland	70.26	
Do	Jhajjar	Dighal	9.46	
Do	Do	Dhandlan	39.91	
Do	Do	Gochi	43.77	
Do	Do	Beri Dopana	11.79	
Do	Do	Beri Khas	47.17	
Do	Do	Bakrah	6.00	
Do	Do	Dibaldian Bidian	33.19	
Do	Do	Dabal Kirmain	23.37	
Do	Do	Palra	25.56	
Do	Do	Paharipura	28.98	
Do	Do	Achhej	14.72	
Do	Do	Thomaspura	5.49	
Do	Do	Birchuchakwas	22.17	
Do	Do	Mathanel	59.75	
Do	Do	Babuliah	2.21	
Do	Do	Mundsa	30.05	
Do	Do	Kheri Madanpur	17.57	
Total			560.37	

No. 5325/2L.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government, at public expense, namely, for constructing Girwa Minor from R. D. 0 to tail R. D. 2750 off taking R. D. 84700 left Behal Distributary in village Girwa in tehsil Loharu, district Bhiwani for which a notification has been issued under sub-section (4) of section 17 read with clause (c) of sub-section (2) of section (17) of the said Act and published,—*vide* Haryana Government Notification No. 4675, dated 8th April, 1975 in Haryana Government Gazette, Part I, it is hereby declared that the land described in the specifications below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

This plans of the land may be inspected in the offices of the Land Acquisition Collector, Public Works, Department, Irrigation Branch, Ambala and the Executive Engineer, Jui Canal Division, Bhiwani.

SPECIFICATIONS

District	Tehsil	Village	Hadbast No.	Area in Acres	Boundary
Bhiwani	Loharu	Girwa	109	3.49	A strip of land 27,50 feet in length varying in width passing through Khasra Numbers as per separate statement given below lying generally in the direction from North-east to South-west as demarcated at site and as shown on the index plan.

JUI CANAL DIVISION, BHIWANI

Statement showing Khasra numbers in which the land is proposed to be acquired for constructing Girwa Minor from R. D. 0 to tail R. D. 2750 off taking R. D. 84700 left Behal distributary in village Girwa in tehsil Loharu, district Bhiwani.

Serial No.	Name of Village	Hadbast Number	Khasra Numbers
1	Girwa	109	324, 326, 327, 328 and 146

The 23rd April, 1975

No. 5380/2L.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at public expense, for a public purpose, namely, for constructing Dhangar Minor from R. D. 0 to tail R. D. 16000 Off taking R.D. 56200-right Jui Canal in villages Dhangar and Kairu, [tehsil Bhiwani, district Bhiwani, it is hereby notified that the land in the locality specified below is likely to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the undertaking along with their servants, workmen, etc., to enter upon and survey land in the locality and do all other acts required or permitted by that section.

Further whereas the Governor of Haryana is satisfied that the land is required for the construction of Dhangar Minor of Jui Canal Project which is very urgent importance with the meaning of clause (c) of sub-section (2) of section 17 of the said Act whereas the Governor of Haryana is of the opinion that the provisions of sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of section 17 of the said Act that the provisions of section 5A of the said Act shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Village	Hadbast Number	Area in acres	Boundary
Bhiwani	Bhiwani	Dhangar	66	3.59	A strip of land 16,000 feet in length, varying in width passing through Khasra Numbers as per statement noted below lying generally in the direction from South-west to North-east then South-east to North-west as demarcated at site and as shown on the index plan.
Bhiwani	Bhiwani	Kairu	72	20.79	
		Total		24.38	

JUI CANAL DIVISION, BHIWANI

Statement showing Khasra Number in which the land is proposed to be acquired for constructing Dhangar Minor from RD 0 to tail RD 16,000 off-taking RI 56,200 Right Jui Canal in village Dhangar and Kairu in tehsil Bhiwani, district Bhiwani.

S. No.	Name of Village	Hadbast No	Khasra Numbers
1.	Dhangar	66	58/56, 15, 26, 25, 57/1, 10, 11, 20, 22 12/1, 2, 42/2, 9, 10 2/1, 2 20/1, 2, 11/1, 2 40/13, 18, 19, 22 24/4, 6, 6, 7, 14, 15, 16, 17 23/16, 24, 25
2.	Kairu	72	721, 722, 714, 713, 712, 711, 12 132, 79, 78, 77, 25, 26, 33, 34, 35, 36, 37, 38, 39, 40 & 41

(Sd.)

Superintending Engineer,
Indira Gandhi Canal Circle, Rohtak.

The 28th April, 1975

No. 62 10/4-L.—In pursuance of provisions of the Section 48 of the Land Acquisition Act, 1894 and all other powers enabling in this behalf, the Governor of Haryana hereby withdraws from acquisition of the land specified below, with respect to which a Notification under section 4 of the said Act, was issued with Haryana Government notification No. 5877/4-L, dated 15th July, 1974 and the declaration under section 6 thereof was made with Haryana Government Notification No. 6196/4-L dated 24th July, 1974.

SPECIFICATION

District	Tehsil	Village	Area in acres	Direction
Rohtak	Jhajjar	Salhawas	56.48	A strip of land measuring 7,950 feet in length varying in widths and comprising of Killa numbers as below :— <div style="display: flex; justify-content: space-between;"> <div> <i>Rectangle Number</i> 4 5 </div> <div> <i>Killa Numbers in Part</i> 1, 10, 11, 20 and 21 5, 6, 15, 16 and 25 </div> </div>

District	Tehsil	Village	Area in acre	Direction
Rohtak— <i>concl'd</i>	Jhajjar— <i>concl'd</i>	Salhawas <i>concl'd</i>	Rectangle Number	Killa Number in Part
			22	5, 6, 15, 16 and 25
			23	1, 10, 11, 20 and 21
			24	1, 10, 11, 20 and 21
			25	5, 6, 15, 16 and 25
			50	5, 6, 15, 16 and 25
			51	1, 10, 11, 20 and 21
			58	1, 10, 11, 20 and 21
			59	5, 6, 15, 16 and 25
			85	5, 6, 15, 16 and 25
			86	1, 10, 11, 20 and 21
			92	1, 10, 11, 20 and 21
			93	5, 6, 15, 16 and 25
			120	5, 6, 15, 16 and 25
			121	1, 10, 11, 20 and 21
				Generally lying in the direction from North to South as shown on Index Plan and as demar- cated at site.

No. 6227/5-L.—In pursuance of the provisions of section 48 of the Land Acquisition Act, 1894, and all other powers enabling in this behalf, the Governor of Haryana hereby withdraw from acquisition, the land specified below, with respect to which a notification under section 4 of the said Act, was issued with Haryana Government Notification No. 154/5-L, dated 12th November, 1974 and the declaration under section 6 thereof was made with Haryana Government Notification No. 278/5-L, dated 19th November, 1975.

SPECIFICATION

District	Tehsil	Village	Area in		Hadbast No.	Boundaries	
			Acres	Hectares			
						A strip of land measuring 2,385 metres in length and varying in width comprising of Killa Nos. given below :—	
						Rect. Nos.	
						Killa Numbers in part	
Mahendragarh	Rewari	Rewari	32.94	13.33	125	4	8, 9, 12, 13, 14, 16, 17, 18, 24 and 25
						10	21
						15	21
						16	1, 2, 8, 9, 10, 12, 13, 14, 16, 17, 18, 24 and 25
						17	5
						30	5
						31	1, 2, 8, 9, 10, 12, 13, 14, 16, 17, 18 and 24 & 25
						32	21
						34	21

35	1, 2, 8, 9, 10, 12, 13, 14, 16, 17, 18, 24 and 25
36	5
70	5
71	1, 2, 9, 10 and 11
113	6, 15, 16 and 25
114	10, 11, 20 and 21
115	1, 10, 11, 20 and 21
116	5, 6, 15, 16 and 25
151	5, 6, 15, 16 and 25
152	1, 10 and 11

Generally lying in the direction from north-west to south-east and from north to south as shown a Index Plan

By order of the Governor of Haryana,
A. R. SETHI,

Superintending Engineer,
JLN Canal Circle, No. 1, Rohtak.

LABOUR AND EMPLOYMENT DEPARTMENT

The 24th March, 1975

No. 3801-6L-75/13348.—In pursuance of the provisions of clause (5) of rule 2 of the Employment Exchange (Compulsory Notification of Vacancies) Rules, 1960, and in supersession of Haryana Government notification No. 2300-6L-74/11468, dated the 8th April, 1974, the Governor of Haryana hereby notified that the following Employment Exchanges in the State of Haryana shall have jurisdiction in the areas noted against each :—

Name of the Employment Exchange	Areas
1. Divisional Employment Exchange, Ambala	Ambala Tehsil in District Ambala.
2. District Employment Exchange, Yamunanagar	Jagadhari Tehsil in District Ambala.
3. Town Employment Exchange, Kalka	Kalka Tehsil except the area falling in Raipur Rani Development Block in District Ambala.
4. Rural Manpower Unit, Sadhaura	Naraingarh Tehsil except the area falling in Raipur Rani Development Block in District Ambala.
5. Rural Manpower Unit, Morni	Raipur Rani Development Block in District Ambala.
6. Divisional Employment Exchange, Faridabad.	Ballabgarh Tehsil in District Gurgaon.
7. Town Employment Exchange, Palwal.	Palwal Tehsil in District Gurgaon.
8. District Employment Exchange, Gurgaon.	Gurgaon Tehsil in District Gurgaon.
9. Rural Manpower Unit, Nuh	Nuh Tehsil in District Gurgaon.
10. Rural Manpower Unit, Ferozpur Jhirka.	Ferozpur Jhirka Tehsil in District Gurgaon.
11. Divisional Employment Exchange, Hissar	Hissar, Tohana and Fatehabad Tahsil in District Hissar.
12. District Employment exchange, Sirsa.	Sirsa and Dabwali Tehsil in District Hissar.
13. Town Employment Exchange, Hansi	Hansi Tahsil in District Hissar.
14. District Employment Exchange, Bhiwani.	Bhiwani District Except Tahsil Dadri and area falling in Badhra and Tosham Development Blocks.

Name of the Employment Exchange	Areas
15 Town Employment Exchange Charkhi Dadri	Dadri Tehsil except areas falling in Sadhaura Development Block in District Bh wani
16 Rural Manpower Unit, Tosham	Tosham Development Block in District Bhiwani
17 Rural Manpower Unit Badhra	Badhra Development Block in District Bhiwani
18 District Employment Exchange, Karnal	Karnal Tehsil in District Karnal
19 District Employment Exchange, Panipat	Panipat Tehsil in District Karnal
20 District Employment Exchange, Kurukshetra	Gulha and Thanesar Tehsil in District Kurukshetra
21 Town Employment Exchange, Kaithal	Kaithal Tehsil in District Kurukshetra
22 District Employment Exchange, Narnaul	Mohindergarh District except Rewari Tehsil Mohindergarh Kanina and Jatusana Development Block and Mohindergarh Municipal Limits.
23 District Employment Exchange, Rewari	Rewari Tehsil except Jatusana Development Block in District Mohindergarh
24 Rural Manpower Unit, Jatusana	Jatusana Development Blocks in District Mohindergarh
25 Rural Manpower Unit, Mohindergarh	Mohindergarh and Kanina Development Blocks and Mohindergarh Municipal Limits
26 Divisional Employment Exchange, Rohtak	Rohtak Tehsil in District Rohtak
27 Town Employment Exchange, Bahadurgarh	Bahadurgarh Tehsil in District Rohtak
28 Rural Manpower Unit, Jhajjar	Jhajjar Tehsil in District Rohtak
29 District Employment Exchange, Sonapat	Sonapat District except Gohana Tehsil & area falling in Rai Development Block
30 Rural Manpower Unit Rai	Rai Development Block in District Sonapat
31 Rural Manpower Unit, Gohana	Gohana Tehsil in District Sonapat
32 District Employment Exchange, Jind	Jind and Safidon Tehsil in District Jind
33 Rural Manpower Unit, Narwana	Narwana Tehsil in District Jind

The 8th April, 1975

No. 3479-41-75/12783.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Jind Coop. Marketing-cum-Processing Society Ltd. Jind.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 16 of 1975

between

SHRI RAM SARUP AND THE MANAGEMENT OF THE JIND COOP. MARKETING-CUM-PROCESSING SOCIETY LTD., JIND.

Present.—

Shri Ram Sarup, for the workman.

Nemo, for the management.

AWARD

Shri Ram Sarup workman concerned was in the service of the Jind Co-operative Marketing-cum-Processing Society Ltd., Jind. The following dispute between him and the Society was referred for adjudication to this court,—*vide* order No. ID/KHL/216-A-75/14061-65, dated 10th July, 1974, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Ram Sarup was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, the parties were called upon to put in their respective pleadings.

It is, however, not necessary to go into the merits of the case as, on the representation of the workman, the said Society has passed a resolution to take him back on duty with continuity of his previous service and maintaining his seniority, but without payment of back wages, provided he withdrawn his dispute. He has accordingly made the application Exhibit W. 1. His statement has also been recorded. According to him, he had himself approached the Society for the settlement of the dispute and after hearing him, the above resolution had been passed by the Society. In the circumstances, he does not want to seek any relief from this court by proceedings with the present reference. A no dispute award is, therefore, given but without any order as to costs.

Dated 24th March, 1975.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 714, dated 25th March, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 348041-75/12785.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak in respect of the dispute between the workman and the Management of M/s American Universal Electrical (India) Pvt. Ltd. Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 81 of 1970.

between

SHRI OM PARKASH PAINTER (T. No. 242) AND THE MANAGEMENT OF M/S AMERICAN
UNIVERSAL ELECTRICAL (INDIA) PVT. LTD. FARIDABAD.

Present:—

Shri Darshan Singh, for the management.

Shri S. L. Gupta, for the workman.

AWARD

Shri Om Parkash Painter (T. No. 243) was in the service of M/s American Universal Electrical (India) Pvt. Ltd., Faridabad. The management dismissed him from service on 11th December, 1968 allegedly on a charge of mis-conduct and after holding proper domestic enquiry. Feeling aggrieved, he gave the demand notice on 16th December, 1968, whereupon conciliation proceedings were initiated which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, *vide* order No. ID/ID/301-B/8236, dated 20th March, 1970, with the following term of reference.

“Whether the termination of services of Shri Om Parkash was justified and in order? If not, to what relief is he entitled?”

The parties put in their respective pleadings. The management contested the claim of the workman for reinstatement and payment of back wages and relied mainly upon the domestic enquiry records whereof were filed in original along with documents relating thereof. The validity of the reference was also questioned. In his statement of claim, the workman challenged the validity of the enquiry and the findings of the Enquiry Officer as being perverse. According to him, the charge-sheet, the enquiry order, as also the dismissal order had not been issued by the competent authority as per the Standing Orders of the Company, nor had the enquiry been conducted in accordance with the principles of natural justice. It was further urged that he had been a victim of trade union activity as he had been engaged in organising a union of the workers in the factory. In the objections to the enquiry proceedings filed separately, it was further urged that the witnesses of the workman had been examined first and he had been given no chance to produce his defence.

The following issues arose for determination in the case.

- (1) Whether the present reference is bad in law for the reasons given in the written statement?
- (2) Whether the termination of services of Shri Om Parkash Painter was justified and in order? If not, to what relief is he entitled?

The management has proved the enquiry record including the findings of the Enquiry Officer Examinations M. 1 to M. 8 by examining Shri M. L. Gupta Time-keeper-Cum-Personnel Assistant of the Company M. W. 1 who had recorded the enquiry proceedings. According to him, the workman concerned had fully participated in the enquiry and signed the enquiry proceedings. The Enquiry Officer and the management representative in the enquiry have not been examined being no longer in its service.

On the other hand, Shri Om Parkash workman has himself come into the witness-box and had denied his signatures or initials on the enquiry proceedings.

The case has been fully argued on both sides and I have given a careful consideration to the facts on record. The question of the vices of the enquiry has to be decided first. As would be clear from the perusal of the charge-sheet, dated October 16, 1968 Exhibit M. 1, the enquiry was in regard to the misconduct alleged to have been committed by the two workmen Om Parkash junior (T.No. 245) and the present workman Om Parkash Painter (T. No. 242) who had quarreled during the working hours and indulged in using filthy language against each other. The additional charge against the present workman was that he had washed his coat in thinner without permission. The other workman has not raised any dispute although similar action of dismissal of service was taken against him by the management.

The question which is of vital importance and arises for determination in the case is two-fold, firstly, whether the aforesaid allegations contained in the charge-sheet Exhibit M. 1 were tantamount to misconduct on the part of the present workman, as defined in the Certified Standing Orders of the Company, and, secondly, whether a proper enquiry had been conducted against him into the said charges before taking the impugned action of dismissal of service taken against him. On a careful scrutiny of the material on record, oral as well as documentary, I do not find anything wrong with the enquiry and the action taken against the workman as a result of the findings of the Enquiry Officer. A perusal of sub-clauses 9 and 10 of the Certified Standing Orders of the Company relevant extract whereof has been placed on record along with the Hindi version of the Certified Standing Orders, would reveal that the alleged acts on the part of the present workman did constitute misconduct. Nothing to the contrary has been shown or proved on behalf of the workman concerned.

As for the validity of the enquiry, a perusal of the entire records would show that Shri Om Parkash workman concerned had fully participated in the enquiry, cross-examined the witnesses and also produced his defence. He had further signed each and every page of the enquiry proceedings. It does not lie in his mouth to deny this fact (as has been done in his statement recorded in the present proceedings) which is patent from the record, especially when no such objection was raised by him in the statement of claim or the objections to the enquiry proceedings filed separately.

The incident regarding the fight or quarrel between the aforesaid two workmen and their indulging in filthy language against each other is proved from two witnesses Shri Jagdish Parshad (T. No. 441) and Shri Shibu Ram (T. No. 179) who were working in the same shift. They were the witnesses examined by the workman themselves. Even his own statement recorded by the Enquiry Officer is clear on this point. The finding of guilty given by the Enquiry Officer on this charge cannot, therefore, by any stretch of imagination be held to be perverse and not based on fact.

There is no doubt that Shri D. N. Kathuria Night Shift Supervisor was examined by the Enquiry Officer as the last witness in the case and thereafter no evidence of the workman was taken. But his statement, in the context of the facts admitted and proved, does not in any way prejudice the case of the present workman. He was not a witness of the alleged fight between the two workmen. He had mainly stated regarding the washing of the coat by the workman in Thinner which fact, has been admitted by him in so many words in his own statement recorded by the Enquiry Officer. There is nothing to indicate that he had obtained the necessary permission of the competent authority for this purpose.

The last though not the least important contention raised on behalf of the workman concerned is that the charge-sheet, the enquiry order and the dismissal order were not issued by the competent authority. This contention again is devoid of force. The charge-sheet was issued by Shri S. K. Sood, Personnel-cum-Administrative Officer and after considering the explanation of both the workmen which was found to be not satisfactory the enquiry was ordered by the Technical Director Shri R. K. Malhotra who was a superior officer. The dismissal order was also issued by him. It has not been shown as to how the Personnel-cum-Administrative Officer was not competent to issue the charge-sheet and the Technical Director a superior officer of the management was not competent to order enquiry into the misconduct of the workman concerned and dismiss him from service after considering the findings of the Enquiry Officer holding him guilty of the charges levelled against him.

So, on the facts brought on record and for the reasons aforesaid, I am of the considered view that the present workman was guilty of the charges of misconduct, as defined under the Standing Orders of the Company, and the impugned action of dismissal from service had been taken against him by the management after holding a just and proper enquiry after giving him full opportunity of being heard. No reasonable ground has been made out to interfere with the same. The case of the workman is since not covered by the amended section 11-A of the Industrial Disputes Act, 1947. I am not called upon to go into the question of the quantum of punishment awarded to the workman.

In the circumstances, the validity of the enquiry held against workman concerned and the punishment awarded to him by the management have to be up-held. The award is made accordingly holding that the workman concerned is not entitled to any relief by way of reinstatement or payment of back dues. There shall, however, be no order as to costs.

O. P. SHARMA,

Dated 20th March, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 715, dated 25th March, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 328 I-41.ab-75/12949.- In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the Management of M/s Technological Institute of Textiles, Bhiwani.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 103 of 1970

between

SARVSHRI CHANDER BHAN AND AMIR SINGH AND THE MANAGEMENT OF M/S
TECHNOLOGICAL INSTITUTE OF TEXTILES, BHIWANI

Present :

Shri Sagar Ram Gupta, for the workman.

Shri B. R. Ghai for the management.

AWARD

Sarvshri Chander Bhan and Amir Singh were in the service of M/s Technological Institute of Textiles, Bhiwani. The management dismissed them from service, *vide* order dated 21st May, 1968 allegedly on charges of disorderly behaviour, subversive of discipline and using derogatory and insulting language against the Factory Manager inside the factory premises. Feeling aggrieved, they raised a demand for reinstatement which was not acceded to by the management. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court,—*vide* order No. ID/Bhiwani/20-69/43-5-89, dated 5th February, 1970, with the following term of reference:

“Whether the termination of services of Sarvshri Chander Bhan and Amir Singh was justified and in order? If not, to what relief are they entitled?”

The parties were called upon to put in their respective pleadings. The management contested the claim of the workmen on merits and some legal objections were also raised. With regard to Shri Chander Bhan one of the workmen, it was stated that he had already settled his dispute.

In the statement of claim filed on behalf of the workmen, the allegations of the management were controverted and it was alleged that the charges levelled against them were false and the so-called enquiry had not been conducted in accordance with the principles of natural justice and the requirements of the Certified Standing Orders of the Company. The validity of the dismissal order was also challenged and it was urged that the same had not been passed by the competent authority.

From the pleadings of the parties, the following issues arose for determination in the case:—

- (1) Whether the order of dismissal cannot be challenged because of the approval of the impugned action granted by the Industrial Tribunal, Haryana under section 33 A (b) of the Industrial Disputes Act?
- (2) Whether the order of dismissal cannot be challenged on the ground of victimisation and violation of the principles of natural justice in the absence of the particulars of the same?
- (3) Whether Shri Chander Bhan workman concerned has already settled his dispute with the management? If so, with what effect?
- (4) Whether the termination of services of Sarvshri Chander Bhan and Amir Singh was justified and in order? If not, to what relief are they entitled?

The plea of the management regarding the settlement of the dispute by Shri Chander Bhan one of the workmen concerned has been admitted by his authorised representative Shri Sagar Ram Gupta as per his statement recorded in the case. Shri Amir Singh, the other workman has, however, strongly contested his claim.

The management has proved the enquiry record and documents relating thereto by examining the Enquiry Officer Shri G. R. Mangla who was working as Manager of the Bhiwani Textile Mills, Bhiwani at the relevant time. The documents proved by him include the charge-sheet Exhibit W.1/1, explanation of the workman Exhibit M. W.1/2, letter of appointment as Enquiry Officer Exhibits M. W.1/3, the record of the enquiry proceedings (pages 11 to 38) Exhibit M. W.1/4, the findings of the enquiry Exhibit M. W. 1/5, the dismissal order passed by the General Manager Exhibit M. W. 1/6 and the record of the previous enquiry held against Shri Amir Singh workman concerned Exhibit M. W. 1/7.

On the other hand, the workman concerned has made his own statement besides examining Shri Sagar Ram Gupta, General Secretary, T. I. T. Karamchhari Sangh, Bhiwani W. W. 2 and proved documents including applications dated 11th September, 1967, 2nd August, 1967, 11th August, 1967 and 11th September, 1967 Exhibits W. 1. to W. 4 and letters dated 30th July, 1967 15th April, 1967, 15th May, 1967 and 2nd August, 1967 Exhibit W. 5 to W. 8 submitted to the management in connection with the aforesaid enquiry and the letters dated 24th August, 1967 and 26th September, 1967 addressed by the T. I. T. Karamchhari Sangh, Bhiwani to the Enquiry Officer Exhibits W. 9 and W. 10.

The case has been well argued on both sides and I have given a considered and careful thought to the material on record, oral as well as documentary. It is agreed on both sides that the question of the vires of the enquiry has to be decided first. As already observed the enquiry was held jointly against both the workmen, but since the other workman Shri Chander Bhan has admittedly settled his

dispute with the management, the question that arises for determination in the case is whether the enquiry was held properly against the remaining workman Shri Amir Singh and he was given adequate opportunity to defend himself against the charges levelled by the management. The learned representative of the workman has strongly argued that the so-called enquiry is only a farce and deserves to be set aside. He has questioned the validity of the enquiry on more than one ground.

To begin with it has been urged that the Enquiry Officer Shri G. R. Mangla was not a impartial person and he had held the enquiry in total disregard of the principles of natural justice. The statements of the witnesses were not properly recorded by him nor was the workman furnished with a list of the witnesses in spite of demand and objections raised by him during the course of the enquiry were not recorded. In fact, the Enquiry Officer had himself recorded the statements of the witnesses without any depositions having been made by the witnesses themselves.

The next contention raised on behalf of the workman concerned is that no opportunity was given to him to lead his defence and the witnesses he wanted to be examined in his defence were threatened with dire consequences.

It has further been argued that the specific sub-clause of the Standing Orders of the Company was not mentioned in the charge-sheet nor was the workman told under what specific sub-clause relating to the alleged misconduct he was being tried. According to him, it was a general strike by all the workers in the mills but the action was taken against the present workman and some other workers who were active trade union leaders and the enquiry was therefore, vitiated and, therefore, the action of the management was *malafide* and suffered from motives of discrimination and victimisation against the workers concerned.

Lastly, it has been argued that the past record of the present workman was not taken into consideration either by the Enquiry Officer or by the General Manager, who passed the order of dismissal from service against him, although he was not competent to do so since under the Certified Standing Orders of the Company only the employer who was the Birla Education Trust in the instant case could take such a disciplinary action against the workman.

The learned representative of the management has strongly refuted the above contentions raised on behalf of the workman concerned. A perusal of the record would show that the enquiry was first entrusted to Shri Ram Charan Yadav but on certain objections raised by the workman the Enquiry Officer was changed and Shri G. R. Mangla who was then the Factory Manager of Bhiwani Textile Mills, Bhiwani was appointed the Enquiry Officer. He held the enquiry after giving full opportunity to the workman concerned who had participated in the enquiry. The management examined five witnesses in the presence of the workman and he was given full opportunity to cross-examine them. After the close of the evidence of the management on 13th September 1967 statement of Shri Amir Singh workman concerned was recorded on 14th September, 1967. In his examination in chief he stated that excepting what had been mentioned by him in his explanation to the charge-sheet, he did not want to say anything in his defence. Shri Chandar Bhan the other workman who was also examined on that date although making a similar statement had expressed his desire to produce his witnesses in defence on some later date. Since Shri Amar Singh had stated that he would be on leave till 20th September, 1967 the enquiry was adjourned to 26th September, 1967. On that date both the workmen appeared but left the proceedings stating that they would bring their assistants to help them in the enquiry from outside, but for reasons better known to them they did not turn up. The Enquiry Officer however, gave them still another opportunity to produce their defence and the enquiry was fixed for this purpose on 19th October, 1967. On that date also the workman elected not to appear and take part in the enquiry proceedings which were, therefore, concluded. After considering the entire material produced before him, the Enquiry Officer gave his findings of guilty against the workman, —vide his report dated 6th February, 1968 copy Exhibit M. W. 1/5 on record.

Taking into consideration the facts discussed above, it cannot by any stretch of imagination be held that the enquiry had been conducted by Shri G. R. Mangla in any hasty or arbitrary manner in violation of the principles of natural justice. Nothing has been brought on record to indicate that the Enquiry Officer was in any way prejudiced against the workman concerned. He was not a witness of the occurrence. He had given full opportunity to both the workmen to cross-examine the witnesses of the management who were examined in their presence and also to produce their defence. Since the enquiry was held in the presence of the witnesses the non supply of the records of the proceedings could not be held to be fatal to the enquiry. It may be stated here that according to the workman concerned copy of the enquiry report containing the findings of the Enquiry Officer was also not supplied to him. It was not necessary to do so and I have not been referred to any law to support the contention that the enquiry must be held to be vitiated if a copy of the findings of the enquiry Officer is not given to the workman concerned.

As for the non-mention of the particular sub-clause of the Standing Orders of the Company describing the aforesaid acts on the part of the workman to be misconduct also no good case has been made out on behalf of the workman to set aside the enquiry. The allegations against the workman were clearly and specifically mentioned in the charge-sheet which constitute misconduct under the general clause 14(3) of the Standing Orders of the Company which fact was mentioned in the charge-sheet itself. In the circumstances, it could not be held that the present workman was not aware of the particular charges levelled against him which he had to meet in the enquiry ordered by the management after considering his explanation to the same to be not satisfactory.

Much stress has been laid by the learned representative of the workman on the fact that the past record of the workman was not taken into consideration either by the Enquiry Officer or by the General Manager who passed the order of dismissal from service against him. It has further been urged that although according to the management a large number of workers in the mills had indulged in similar objectionable conduct action was taken only against the workers who had taken leading part in the union activities which smacked of discrimination and victimisation. This contention again is devoid of force. We are not concerned with action taken against several other workers nor with the cases of those of the workers against whom no such action was taken. It was a matter for the management to decide as to who had taken the leading part and were instrumental in indulging in disorderly, derogatory and insulting behaviour towards the Factory Manager Shri N. M. Jain. What is important to see whether the charges levelled against the present workman had been proved in a properly conducted domestic enquiry after giving him full opportunity of being heard, and the answer to this query is not difficult to find. As already discussed in detail, the charges were specifically communicated to him and the enquiry was ordered after considering his explanation to the same to be not satisfactory. For the reasons aforesaid, I do not find anything wrong with the enquiry which was conducted in the presence of the workman in an impartial manner and after giving him full opportunity of being heard. The Enquiry Officer had been changed on his request which shows the bona fides of the management. The Enquiry Officer himself had given full opportunity to the workman to cross-examine the witnesses of the management and also to produce his defence and in spite of the fact that he had absented himself from the enquiry along with the other workers without assigning any reasonable ground, suitable adjournments were given to him to produce his defence. If, for reasons better known to him, he did not want to produce any defence and wanted to rely only on his explanation to the charge-sheet, as already pointed out, and had further elected not even to appear on the date of the enquiry fixed the Enquiry Officer had no alternative but to conclude the enquiry and give his findings on the basis of the evidence produced before him. His findings which are supported by the witnesses examined by the management can not be held to be perverse.

There is no gain saying the fact that the past record of the present workman was not produced before the Enquiry Officer nor does it appear to have been taken into consideration by the General Manager of the Mills who passed the order of dismissal from service against him after considering the findings of the Enquiry Officer. The Standing Orders of the Company do require that while dismissing a workman from service his past record, if any, should be taken into consideration. However, taking into consideration the serious nature of the allegations of misconduct against the present workman which were duly established in a properly held enquiry, I am of the considered view that the omission on the part of the management in not considering the past record of the workman or non-mention of this fact in the dismissal order would not vitiate the enquiry or the action of dismissal from service taken against him. As would be clear from the perusal of the charge-sheet the present workman Shri Amar Singh had gheraoed the Factory Manager Shri N. M. Jain on the relevant date and shouted highly objectionable slogans as such :—

- (i) Nathu Shahi Nahin Chalegi.
- (ii) Pushkar Shahi Nahin Chalegi.
- (iii) Gundagardi Nahin Chalegi.
- (iv) Kahi Kutia Kan Kahi Nathu Mai Ki Nak Kahi.
- (v) Nathu Mar Gaya Hai Hai.

Now, the conduct of the workman concerned in raising the above slogans after gheraoing the Factory Manager in collaboration the other workers in the Mills cannot be held to be justified. The slogans used by them were derogatory, insulting and their conduct was clearly subversive of discipline in the discharge of their duties. Nothing has been brought on the record to show that this workman had any unblemished record of service and, even if it be assumed for the sake of arguments that his conduct in the past had been satisfactory that cannot be considered as a mitigating circumstance to take a lenient view of the matter. The whole case has to be judged taking into consideration the gravity of the offence committed by him. The case might have been a different if the offence committed by him was of a minor nature but that is not the case here as would be clear from the facts stated above. He was guilty of a major misconduct by indulging in a most objectionable, disorderly, derogatory and

insulting attitude towards a very senior and responsible officer of the Company, the Factory Manager who had to exercise proper control and supervision over the workers for the normal functioning of the Mills. The management could ill afford to put up with such misconduct on the part of any worker without taking any disciplinary action against him.

The learned representative of the workman has argued that the punishment of dismissal from service awarded to the workman is shockingly harsh and excessive. The contention has absolutely no force for the detailed reasons given above having regard to the gravity of the offence committed by the workman.

Lastly, it has been urged that the General Manager who passed the dismissal order was not competent to do so as such an action against the workman could be taken only by the employer who in the instant case, is the Birla Education Trust. I do not find any force in this argument either. The General Manager exercises the over all control and supervision with regard to the working in the Mills, there being no other Senior Officer over him for this purpose. The charge-sheet to the workman was given by him and after considering his explanation the enquiry was held under his orders. Taking into consideration the findings of guilty given by the Enquiry Officer after holding a just and proper enquiry against the workman, the General Manager was fully competent to dispense his services and pass an order of dismissal from service against him and the same has, therefore, to be up-held.

It will not be out of place to consider here that the management had sought approval of the said action taken against the workman by means of an application under section 33-2(b) of the Industrial Disputes Act, 1947, which was granted but the approval granted by the Tribunal-cum-Court, as contemplated under section 33-2(b) does not debar the workman from raising a regular dispute challenging the validity of the impugned action of dismissal from service taken against him by the management. The issue No. 1 is accordingly decided against the management.

There is not much to discuss with regard to issue No. 2 for the workman concerned. As already discussed, no violation of the principles of natural justice in holding the enquiry against the workman has been established nor any motivation of victimisation on the part of the management in taking the action in question against him and to that extent issue No. 2 is decided against the workman.

Issue No 3.—This issue does not arise for consideration since Shri Chander Bhan, one of the workmen concerned has settled his dispute with the management, as already observed.

Issue No. 4.—In view of the facts established in the case and the detailed reasons given above, the dismissal from service of Shri Amir Singh, workman concerned, on account of his serious misconduct in the discharge of his duties and after holding a proper enquiry has to be held as being justified and in order. Issue No. 4 is decided against him and the award is accordingly made holding that he is not entitled to any relief by way of reinstatement or payment of back wages.

There would, however, be no order as to costs.

Dated the 17th March, 1975.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 706, dated 21st March, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 22nd April, 1975

No. 3864-41-75/12886.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Motoren Industries, Industrial Area, Faridabad :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD]

Reference No. 57 of 1974

Between

SHRI JAINAND SINGH AND THE MANAGEMENT OF M/S MOTOREN INDUSTRIES,
INDUSTRIAL AREA, FARIDABAD

Present.—

Shri Madhusudan Saran Kaushish, for the workman.

Shri R.C. Sharma, for the management.

AWARD

The facts relevant for the disposal of this reference under clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, may in brief, be stated as under.

Shri Jainand Singh workman concerned was in the service of M/s Motoren Industries, Industrial Area, Faridabad, as a Supervisor in the Eye-rilling Section since 1962. The management dismissed him from service on 31st January, 1967, allegedly on charges of serious acts of misconduct, as per the Standing Orders of the Company and after holding proper domestic enquiry. He raised a dispute by means of demand notice dated 22nd February, 1967, which was referred for adjudication to the Labour Court, Haryana, at Rohtak, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, which was registered as Reference No. 53 of 1967 with the following term of reference:—

“Whether the termination of services of Shri Jainand Singh was justified and in order? If not, to what relief is he entitled?”

The management contested the claim of the workman on merits and also raised some legal objections. After hearing both the parties, Shri P.N. Thukral as Presiding Officer of the Labour Court, Faridabad (since the Labour Court had been shifted from Rohtak to Faridabad), gave his award on October 2, 1968, which was published in the Government Gazette, Part I, dated 5th November, 1968 holding that the termination of the services of the workman was not justified and in order and in the result, he was entitled to reinstatement with continuity of previous service and payment of full back wages.

Feeling aggrieved by the above award, the management filed a Writ Petition No. 3619 of 1968 which it may be stated is pending before the High Court for the States of Punjab and Haryana at Chandigarh.

In the meantime, the appointment of Shri P.N. Thukral as the Presiding Officer of the Labour Court, at Faridabad, was held to be void by the High Court, — vide order dated 2nd September, 1969, in the Writ Petition No. 1129 of 1969 between M/s Gedore Tools (P) Ltd., Faridabad, and Shri Jai Singh. On the representation of the workmen and allegedly without hearing the management, the State Government has been pleased to re-refer the above dispute to this Tribunal, — vide order No. FD/74/11716-20, dated 3rd May, 1974, with the same term of reference as stated above.

On receipt of the order of reference, the parties were called upon to put in their respective pleadings. Shri Jainand Singh workman concerned besides reiterating his demand for reinstatement and payment of back wages as earlier raised in the previous reference with the allegation that he was not guilty of any act of misconduct nor had any enquiry been held against him, he further contended that on account of the decision of the High Court in the case of M/s Gedore Tools (P) Ltd., Faridabad, and its workman referred to above the award made by the Labour Court in his favour on 2nd October, 1968, had been rendered void and ineffective. On the other hand the management while contesting his claim on merits has *inter alia* pleaded that in view of the earlier reference No. 53 of 1967 which is still pending before the High Court in the form of the Writ Petition filed against the award given by the Labour Court in that reference, the present reference is not competent and further that the demand, the subject matter, of the reference, was not first raised on the management and rejected by it so as to constitute an industrial dispute within the meaning of the law. From the pleadings of the parties, the following 3 issues arose for determination in the case:—

1. Whether the present reference is valid in view of the earlier reference No. 53 of 1967 between the same parties in which the award was given on 2nd October, 1968, against which Writ Petition No. 3619 of 1968 of the management is still pending in the High Court.
2. Whether the demand, the subject matter, of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation? if not, with what effect?
3. Whether the termination of services of Shri Jainand Singh was justified and in order? If not, to what relief is he entitled?

Issue No. 1 has been treated as preliminary issue in the case. Shri Jainand Singh workman concerned has made his own statement and proved 3 documents, the demand notice dated, 22nd February, 1967, Exhibit W. 2 given to the management under certificate of posting Exhibit W. 1 and the letter dated 18th October, 1973, addressed to the Secretary to Labour Department Government of Haryana for fresh reference of the dispute Exhibit W. 3. On behalf of the management, Shri R. C. Sharma authorised representative has filed a copy of the Writ Petition No. 3619 of 1968 Exhibit M. 1.

After the production of the above evidence by the parties on the preliminary issue No. 1 some arguments were heard. It was emphatically contended on behalf of the management that during the pendency of the earlier reference before the High Court in the form of the Writ Petition, the present reference was not maintainable. The contention appeared to be forceful as the Writ Petition No. 3619 of 1968 filed by the management against the award dated 2nd October, 1968 made in favour of the workman was only a continuation of the reference. The learned representative of the workman pressed for an adjournment as he wanted to approach the High Court and obtain some order which might have a bearing on the decision of the point in issue in the present reference. The case was adjourned to 11th February, 1975 and then to 1st April 1975. No order has, however, been received from the High Court and the learned representative of the workman has not appeared to advance further arguments in the case.

I have very carefully gone through the facts on record and given a considered thought to the contentions raised on both sides. To my mind, the matter is quite clear. The facts involved are more or less admitted. The previous reference of the dispute No. 53 of 1967 which was made to the Labour Court, Haryana at Rohtak arose out of the termination/dismisal from service of Shri Jainand Singh. The management had contested his claim for reinstatement, payment of back wages etc. on merits as well as on some legal grounds. The present reference has arisen out of the same cause of action. Obviously, there cannot be two references arising out of the same cause of action and between the same parties. There is no allegation by the workman that the previous reference was bad in law. Since the management has preferred revision petition against the award given in the earlier reference that reference has to be deemed to be still pending, the Writ Petition being only a continuation of the reference.

It is necessary to mention here that after the reference of the dispute for adjudication to the Labour Court, Haryana, at Rohtak, the Headquarters of the Court had been shifted to Faridabad but without any specific order for the appointment of Shri P. N. Thukral as the Presiding Officer of the Court at Faridabad. In another case M/s Gedene Tools (P) Ltd., Faridabad *versus* Jai Singh the validity of his appointment was challenged and in civil writ petition No. 1129 of 1969 decided on 2nd September, 1969, the High Court was pleased to observe that there being no order by the State Government for the appointment of Shri P. N. Thukral by way of transfer or otherwise as the Presiding Officer of the Labour Court at Faridabad the award made by him in that case was illegal void and without jurisdiction. On the basis of this judgment of the High Court, it has been urged on behalf of the present workman that the award dated 2nd October, 1968, made in his favour in reference No. 53 of 1967 has also been rendered void and ineffective and his remedy now is only by way of a fresh dispute. It has further been urged that the writ petition filed by the management against the award has in fact, become infructuous. I am afraid, the contention is besides the point and without any substance. The question which is of vital importance and arises for determination in the case is whether during the pendency of the Writ Petition in which the management has raised several pleas, this Tribunal can take cognizance of the matter in the fresh reference made between the parties relating to the same dispute on the representation of the workman and allegedly without hearing the management. The answer to this question has to be in the negative. The whole case is now before the High Court and it is for the High Court to decide whether the writ petition has become infructuous or not. This Tribunal is not called upon to express an opinion or to give a decision on any of the points involved in the case pending before the High Court.

The fact, therefore, remains during the pendency of the earlier reference, as discussed above, the present reference arising out of the same cause of action and between the same parties is not maintainable. Nothing has been brought on the record on behalf of the workman to arrive at a contrary decision. So, for the reasons aforesaid, the preliminary issue No. 1, which is the main issue involved in the case, is decided against workman and in favour of the management and, in the result, the present reference stands to be rejected as being not competent and I hold accordingly. There shall, however, be no order as to costs.

Dated the 9th April, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 702, dated 15th April, 1975

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.